

Remarks

In response to the Advisory Action mailed December 19, 2006, the Applicants respectfully request reconsideration of the rejections and that the case pass to issue in light of the remarks below.

Claims 1, 2, 17, and 19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by USPA 2004/0256718 to Chandler and claims 3 and 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Chandler application and further in view of the Kmenta material. Claims 5-15, 18, and 20 are objected to but would be allowable if rewritten in independent form.

With respect to the rejections, the Applicants respectfully submit that these rejections were overcome in the previously filed after-final response mailed November 28, 2006. This response included a declaration signed by all of the inventors swearing behind the Chandler application. The Applicants respectfully submit that this declaration obviates the rejection in light of the Chandler application. The Examiner, in the aforementioned Advisory Action, refused to enter the declaration and premised his refusal on the basis that the Applicants failed to provide a sufficient reason as to why the declaration was not previously submitted.

The Applicants attempted to submit that the disputed declaration in a non-final response mailed August 16, 2006. This non-final declaration was rejected for missing inventor signatures and inadvertently omitted Exhibits. The Applicants thereafter attempted to resubmit the declaration with all of the signatures and Exhibits in the aforementioned after-final response. The Examiner then refused to accept this after-final declaration.

The Applicants submit that the non-final and after-final correction of the declaration demonstrate an attempt to submit the declaration at an appropriate time during

prosecution. The Applicants submit correcting the declaration in the after-final response should itself be considered as good and sufficient reason to consider the declaration.

Nonetheless, the Applicants, in order to expedite prosecution, have elected to file a Request For Continued Examination (RCE) with this response to the Advisory Action in order to force entry of the declaration.


In light of comments made by the Examiner with respect to the declaration in the Advisory Action, attached are numerous emails to support diligence from the critical date of July 5, 2003, to the filing date of November 23, 2003. It is believed that these emails establish the process by which the undersigned attempted to obtain signatures for the declaration and assignment associated with the application filing. It is believed that the corresponding time period and actions taken by the attorney were reasonable attorney-diligence sufficient to support swearing behind the Chandler application.

In more detail, the inventors of the above-identified application approved the application for filing on July 16, 2003, as noted in the attached email in Exhibit A. This email corresponds with the emails enclosed with the declaration mailed in the after-final response of November 28, 2006, wherein the inventors swore to creating a draft of the application having the presently claimed subject matter on June 18, 2003. The final version of this draft was approved by the inventors on July 16, 2003. The time period from July 16, 2003, upon until the filing date of November 25, 2003, is associated with reasonable attorney-diligence in attempting to facilitate filing the application. The corresponding delayed resulted from an inability to obtain inventor signatures on the formal papers, as required prior to filing applications in accordance with client operating procedure. Part of this delay stemmed from retirement and relocation of the inventors. The emails included within Exhibit B are submitted to demonstrate the reasonable attorney-diligence undertaken to obtain the signatures and file the application

In view of the foregoing, the Applicants respectfully request reconsideration of the rejections and that the case pass to issue. The Examiner is kindly requested to consider the attorney-diligence in combination with the previously submitted inventor declaration. It is believed that this material should be sufficient to swear behind the Chandler application. The Applicants, however, are more than willing to provide any amount of additional information necessary to establish this result.

Please charge the Petition fee of \$120.00 and any additional fees or credit any overpayments as a result of the filing of this paper to the Deposit Account of Ford Global Technologies LLC, No. 06-1510.

Respectfully submitted,
Richard Leddy et al.

By 
John R. Buser
Reg. No. 51,517
Attorney/Agent for Applicant

Date: 1-29-07

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351

From: "Maeroff, Bruce (B.J.)" <bmaeroff@ford.com>
To: "John Buser" <JBUSER@brookskushman.com>
Date: 7/16/03 4:09PM
Subject: RE: Final Draft Patent Application For 201-1077; FMC 1552

I am fine with the application. Please note dcraig and rliddy are no longer with the company, and will not be responding.

Bruce J. Maeroff
Manager, Campaign Prevention and Adv. Reliability
(313) 32-20518 bmaeroff
<http://www.quality.ford.com/cpar>

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-----Original Message-----

From: John Buser [mailto:JBUSER@brookskushman.com]
Sent: Wednesday, July 16, 2003 4:07 PM
To: bmaeroff@ford.com; dcraig@ford.com; rliddy@ford.com;
sjiang@ford.com; tbrock@ford.com; tdavis5@ford.com; uoetter1@ford.com
Subject: Final Draft Patent Application For 201-1077; FMC 1552

Hello Everyone,

Enclosed is a final draft of the patent application identified above. You are each named inventors of the application. As such, it is your responsibility to review the application and to make sure that it satisfactorily describes your invention. This means every details does not have to be as you think it should be.

Siyuan has spent a lot of time with me in drafting the application. Siyuan has done a great job, and I am especially thankful for his effort. We believe it is ready for filing. Please consider this when suggesting changes.

The application will be filed one week from today - July 23. Please have your response to me by e-mail or phone prior to that time. Call me if this is a problem.

Regards,

John R. Buser

Brooks & Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
248-358-4400, -3351 (fax)
249-921-8121 (cell)

From: Claire Flood
To: bmaeroff@ford.com; dcraig@ford.com; rliddy@ford.com; tbrocke@ford.com; tdavis5@landrover.com; uoetter1@ford.com
Date: 9/29/03 10:28AM
Subject: Record ID 81087759 / (201-1077) / FMC 1552 PUS

To All Inventors:

Attached are the Declaration and Assignment for your signature. Also attached are copies of the final specification and drawings to which they refer.

If the application is complete, please execute the attached formal papers and return them to me at your earliest convenience, preferably by facsimile or e-mail. Would you also please return the original, executed papers to me by mail, to be retained in our file in case they are required by the Patent Office.

Please note: It is not necessary for each inventor to sign on the same form. You can each sign individually.

If you have any questions, please contact me or the attorney assigned to this application, John Buser (248 358-4400).

Thank you.

Claire

Claire Flood
 Legal Assistant/Secretary
 Brooks Kushman P.C.
 1000 Town Center
 Twenty-Second Floor
 Southfield, Michigan 48075

To D Craig and R Liddy by

mail.

29 Sept 2003

Tel: (248) 226 2793 (Direct)
 Fax: (248) 358 3351
 cflood@brookskushman.com

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CC: John Buser

From: Claire Flood *ford.com*
To: tdavis5@landrover.com
Date: 10/20/03 9:30AM
Subject: Record ID 81087759 / (201-1077) / FMC 1552 PUS

Mr. Davis,

On 29 September, 2003, I forwarded to you for signature a Declaration and Assignment (formal papers) and the specification and drawings to which they relate.

I have attached these papers again, in case you did not receive them. Would you please execute the Declaration and Assignment and return them to me by facsimile. You should note that it is not necessary for all inventors to sign the same form - you can each sign individually.

If you have any questions, please contact me or the attorney assigned to this application, John Buser (248 358-4400).

Thank you.

Claire

Claire Flood
 Legal Assistant/Secretary
 Brooks Kushman P.C.
 1000 Town Center
 Twenty-Second Floor
 Southfield, Michigan 48075

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 Fax: (248) 358 3351
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From: Claire Flood
To: DCRAIG1@peoplepc.com
Date: 10/21/03 5:46PM
Subject: Record ID 81087759 / (201-1077) / FMC 1552 PUS

Mr. Craig,

You are listed as an inventor for the above-identified application. Attached are the Declaration and Assignment (formal papers) for your signature. Also attached are copies of the final specification and drawings to which they relate.

If the application is complete, please execute the attached formal papers and return them to me at your earliest convenience, preferably by facsimile as soon as possible. Would you also please return the original, executed papers to me by mail, to be retained in our file in case they are required by the Patent Office.

If you have any questions, please contact me or the attorney assigned to this application, John Buser (248 358-4400).

Thank you.

Claire

Claire Flood
 Legal Assistant/Secretary
 Brooks Kushman P.C.
 1000 Town Center
 Twenty-Second Floor
 Southfield, Michigan 48075

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 Fax: (248) 358 3351
 cflood@brookskushman.com

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CC: John Buser

MEMORANDUM

TO: Claire
FROM: Denise
DATE: November 4, 2003
SUBJECT: FMC 1552 PUS / 81087759

We are still waiting for:

Tim Davis - Signed Formal Papers

E-mail requesting them was sent October 20, 2003

11 Nov 2003.
Phoned Tim Davis
44 7764 386674.
left message

From: Claire Flood
To: tdavis5@ford.com
Date: 11/11/03 7:09AM
Subject: Record ID 81087759 / 201-1077 / FMC 1552 PUS

Mr. Davis,

Further to our telephone conversation this morning, I have attached again the formal papers (Declaration and Assignment) together with the specification and drawings to which they relate.

Once you have reviewed these papers, would you please execute the Declaration and Assignment where indicated, and return them to me by facsimile as soon as possible.

Should you have any questions, contact me or the attorney assigned to this application, John Buser (248 358-4400).

Thank you

Claire

Claire Flood
 Legal Assistant/Secretary
 Brooks Kushman P.C.
 1000 Town Center
 Twenty-Second Floor
 Southfield, Michigan 48075

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From: Claire Flood
To: asinglet@ford.com
Date: 11/21/03 3:13PM
Subject: Record ID 81087759 / (201-1077) / FMC 1552 PUS /

Angie,

I now have all signatures for this application. Would you please confirm ownership and advise which figure is to be published.

Thank you.

Claire

Claire Flood
Legal Assistant/Secretary
Brooks Kushman P.C.
1000 Town Center
Twenty-Second Floor
Southfield, Michigan 48075

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cflood@brookskushman.com

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CC: John Buser